IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7454 of 2007()

CR.NO.92/07 OF NEDUMANGADU EXCISE RANGE

: PETITIONER/ACCUSED

SUJATHA, AGED 40 YEARS,
D/O.PANKAJAKSHI, REJITHALAYAM,
SAN NAGAR, ARAZHUPARAMBU,
NEDUMANGADU.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7454 of 2007

Dated this the 5th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, faces allegations under the Kerala Abkari Act. She was allegedly found to keep in her possession 2 litres of arrack on 13.08.07. The petitioner was not arrested as the detecting party did not consist of any woman official. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Her husband who has deserted her has criminal antecedents. The petitioner is residing along with her sick daughter. Totally untenable allegations are raised against the petitioner, it is submitted.

3. The learned Public Prosecutor opposes the application. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate and then seek regular bail, submits the learned Public Prosecutor .

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable

to perceive any features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-